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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,631	01/26/2004	Thomas Leoutsakos		9130
7590	07/08/2004		EXAMINER	
George E. Kersey P.O. Box 1073 Framingham, MA 01701			WHITE, RODNEY BARNETT	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 07/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/764,631	LEOUTSAKOS, THOMAS
	Examiner Rodney B. White	Art Unit 3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 January 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 and 10-15 is/are rejected.
- 7) Claim(s) 9 and 16-20 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Lavasseur et al (U.S. Patent No. 5,626,393).

Lavasseur teaches an apparatus 11 comprising: a rest member 13 having a support surface 32, and a stand 16,17 for said rest member; said rest member having apertures 35,36 therein to permit the adjustment in height thereof with respect to said stand and said stand having means 68,69,71,72 thereon for inhibiting any tendency for the stand to become separated from said rest member during usage thereof, wherein the inhibiting means is compressible to permit said stand to be inserted thru said rest member and expandable thereafter to inhibit separation of said rest member from said stand. (see column 3, lines 61-65)

Claims 1 and 3-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Drabert (U.S. Patent No. 3,132,835).

Drabert teaches an apparatus comprising: a rest member 1 having a support surface , and a stand 3 for said rest member; said rest member having apertures 18,19 therein to permit the adjustment in height thereof with respect to said stand and said stand having means 8 thereon for inhibiting any tendency for the stand to become

separated from said rest member during usage thereof, the stand having a tubular portion and the object 8 is attached to the tubular portion, the object projects from the stand, the inhibiting member is movable inwardly and outwardly, an elastomeric object 16.

Claims 1 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Grimm (U.S. Patent No. 5,294,180).

Grimm teaches an apparatus comprising: a rest member 50 having a support surface, and a stand 20 for said rest member; said rest member having apertures therein to permit the adjustment in height thereof with respect to said stand and said stand having means 60,62 thereon for inhibiting any tendency for the stand to become separated from said rest member during usage thereof, the stand having an apex and the inhibiting means positioned at the apex (see Fig. 5)

Claims 1 and 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Dorsch (U.S. Patent No. 37 28 717a).

Dorsch teaches an apparatus comprising: a rest member 40 having a support surface, and a stand 100,102 for said rest member; said rest member having apertures therein 52,54,56, to permit the adjustment in height thereof with respect to said stand and said stand having means 82,92 thereon for inhibiting any tendency for the stand to become separated from said rest member during usage thereof, the stand having a tubular portion and the object 14 is attached to the tubular portion, the object projects from the stand

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levasseuer et al

Levasseuer et al teach an obvious use of the structures as claimed.

Claims 11-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drabert

Drabert teaches an obvious use of the structures as claimed.

Claims 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grimm

Grimm teaches an obvious use of the structures as claimed.

Claims 9 and 16-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Leoutsakos, Hatcher, Jacobson et al, Ugalde, Dorsch, Foulger,

Levasseur et al, Gitter, Christensen, Jr., Drabert et al, Koch, and Potak teach footrests similar to the present invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (703) 308-2276. The examiner can normally be reached on 5:30 AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rodney B. White,  
Patent Examiner  
Art Unit 3636  
June 28, 2004



Rodney B. White  
Patent Examiner